

立法會
Legislative Council

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From : Clerk to the Legislative Council
To : All Members of the Legislative Council

Council meeting of 11 February 2009

**Proposed amendments to motion on
“Relaxing the eligibility criteria for legal aid”**

Further to LC Paper No. CB(3) 318/08-09 issued on 30 January 2009, three Members (Dr Hon Margaret NG, Hon Albert HO Chun-yan and Prof Hon Patrick LAU Sau-shing) have respectively given notice of their intention to move separate amendments to Dr Hon Priscilla LEUNG Mei-fun’s motion on “Relaxing the eligibility criteria for legal aid” scheduled for the Council meeting of 11 February 2009. As directed by the President, the proposed amendments will be printed on the Agenda of the Council.

2. To assist Members in debating the above motion and amendments, I set out below the procedure to be followed during the debate:

- (a) Dr Hon Priscilla LEUNG Mei-fun moves her motion;
- (b) the President proposes the question on Dr Hon Priscilla LEUNG Mei-fun’s motion, and orders a joint debate;
- (c) the President calls on the three Members, who intend to move amendments, to speak in the following order, but no amendment is to be moved at this stage:
 - (i) Dr Hon Margaret NG;
 - (ii) Hon Albert HO Chun-yan; and
 - (iii) Prof Hon Patrick LAU Sau-shing;

- (d) the President calls upon the designated public officer(s) to speak;
- (e) joint debate on the motion and the amendments follows thereafter;
- (f) the President gives leave to Dr Hon Priscilla LEUNG Mei-fun to speak for the second time on the amendments;
- (g) the President calls upon the designated public officer(s) again to speak;
- (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the three Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Dr Hon Margaret NG to move her amendment to the motion, and forthwith proposes and puts to vote the question on Dr Hon Margaret NG's amendment;
- (i) after Dr Hon Margaret NG's amendment has been voted upon, the President deals with the other two amendments; and
- (j) after all amendments have been dealt with, the President calls upon Dr Hon Priscilla LEUNG Mei-fun to reply. Thereafter, the President puts to vote the question on Dr Hon Priscilla LEUNG Mei-fun's motion, or her motion as amended, as the case may be.

3. For Members' ease of reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Relaxing the eligibility criteria for legal aid”
to be held at the Legislative Council meeting
of Wednesday, 11 February 2009**

1. Dr Hon Priscilla LEUNG Mei-fun’s original motion

That, as the high litigation fees in Hong Kong are beyond the means of the middle class in general, in particular cases for which appeals may be lodged to the Court of Final Appeal where the litigation fees incurred are often astronomical, it is not uncommon that middle-class people go bankrupt because of their involvement in legal proceedings, hence the provision of appropriate legal aid services to such middle-class people is very important; however, under section 5 of the existing Legal Aid Ordinance (Cap. 91), the asset limit for legal aid applicants is \$165,700, which is far below the actual need, rendering the majority of the middle class being excluded from the protection net of legal aid; if involved in litigation, the middle-class people are neither able to pay the high lawyer fees on their own nor eligible to apply for legal aid, they are therefore deprived of judiciary justice; on the other hand, the existing legal aid services only cover litigation cases in Hong Kong, and over the past two decades, a large number of Hong Kong permanent residents have been working and living in the Mainland, and it is very likely that they may get involved in legal proceedings in their daily lives, business operation or work, but they have nowhere to turn to for any legal assistance; in this connection, this Council urges the Government to:

- (a) conduct a comprehensive review on the existing legal aid system;
- (b) relax the asset limit for legal aid applicants (including that for the Supplementary Legal Aid Scheme) to a reasonable level so that more people in need are eligible to apply for legal aid; and
- (c) extend the scope of the existing legal aid services to cover litigation cases in the Mainland involving Hong Kong permanent residents who are in the Mainland.

2. Motion as amended by Dr Hon Margaret NG

That, *to uphold the rule of law, it is necessary to ensure that no one is unable to exercise his or her rights under the law for want of financial means, and* as the high litigation fees in Hong Kong are beyond the means of the middle class in general, in particular cases for which appeals may be lodged to the Court of Final Appeal where the litigation fees incurred are often astronomical, it is not uncommon that middle-class people go bankrupt because of their involvement in legal proceedings, hence the provision of appropriate legal aid services to such middle-class people is

very important; however, under section 5 of the existing Legal Aid Ordinance (Cap. 91), the asset limit for legal aid applicants is \$165,700, which is far below the actual need, rendering the majority of the middle class being excluded from the protection net of legal aid; if involved in litigation, the middle-class people are neither able to pay the ~~high~~ lawyer fees on their own nor eligible to apply for legal aid, they are therefore deprived of judiciary justice; on the other hand, the existing legal aid services only cover litigation cases in Hong Kong, and over the past two decades, a large number of Hong Kong permanent residents have been working and living in the Mainland, and it is very likely that they may get involved in legal proceedings in their daily lives, business operation or work, but they have nowhere to turn to for any legal assistance; in this connection, this Council urges the Government to:

- (a) conduct a comprehensive review on the existing legal aid system;
- (b) relax the asset limit for legal aid applicants (including that for the Supplementary Legal Aid Scheme) to a reasonable level *and extend the scope of assistance* so that more people in need are eligible to apply for legal aid; ~~and~~
- (c) extend the scope of the existing legal aid services to cover litigation cases in the Mainland involving Hong Kong permanent residents who are in the Mainland;
- (d) *consider implementing the recommendations set out in the Report on Conditional Fees published by the Law Reform Commission in July 2007;*
- (e) *review the existing free legal advice service and set up community legal service centres; and*
- (f) *formulate principles for determining legal fees for criminal legal aid so as to establish a more professional criminal legal aid system.*

Note: Dr Hon Margaret NG's amendment is marked in *bold and italic type* or with deletion line.

3. Motion as amended by Hon Albert HO Chun-yan

That, as the high litigation fees in Hong Kong are beyond the means of the middle class in general, in particular cases for which appeals may be lodged to the Court of Final Appeal where the litigation fees incurred are often astronomical, it is not uncommon that middle-class people go bankrupt because of their involvement in legal proceedings, hence the provision of appropriate legal aid services to such middle-class people is very important; however, under section 5 of the existing Legal Aid Ordinance (Cap. 91), the asset limit for legal aid applicants is \$165,700, which is far below the actual need, rendering the majority of the middle class being excluded from the protection net of legal aid; if involved in litigation, the middle-class people are neither able to pay the high lawyer fees on their own nor eligible to apply for legal aid, they are therefore deprived of judiciary justice; on the other hand, the existing legal

aid services only cover litigation cases in Hong Kong, and over the past two decades, a large number of Hong Kong permanent residents have been working and living in the Mainland, and it is very likely that they may get involved in legal proceedings in their daily lives, business operation or work, but they have nowhere to turn to for any legal assistance; in this connection, this Council urges the Government to:

- (a) conduct a comprehensive review on the existing legal aid system *and establish an independent body for assessing and approving applications for legal aid;*
- (b) relax the asset limit for legal aid applicants (including that for the Supplementary Legal Aid Scheme) to a reasonable level so that more people in need are eligible to apply for legal aid; ~~and~~
- (c) extend the scope of the existing legal aid services to cover litigation cases in the Mainland involving Hong Kong permanent residents who are in the Mainland; *and*
- (d) *consider amending the law to enable the Director of Legal Aid to waive the asset limit for application of legal aid in respect of litigation cases involving constitutional issues or significant public interest, in addition to that for litigation cases involving human rights issues.*

Note: Hon Albert HO Chun-yan's amendment is marked in *bold and italic type* or with deletion line.

4. Motion as amended by Prof Hon Patrick LAU Sau-shing

That, as the high litigation fees in Hong Kong are beyond the means of the middle class in general, in particular cases for which appeals may be lodged to the Court of Final Appeal where the litigation fees incurred are often astronomical, it is not uncommon that middle-class people go bankrupt because of their involvement in legal proceedings, hence the provision of appropriate legal aid services to such middle-class people is very important; however, under section 5 of the existing Legal Aid Ordinance (Cap. 91), the asset limit for legal aid applicants is \$165,700, which is far below the actual need, rendering the majority of the middle class being excluded from the protection net of legal aid; if involved in litigation, the middle-class people are neither able to pay the high lawyer fees on their own nor eligible to apply for legal aid, they are therefore deprived of judiciary justice; on the other hand, the existing legal aid services only cover litigation cases in Hong Kong, and over the past two decades, a large number of Hong Kong permanent residents have been working and living in the Mainland, and it is very likely that they may get involved in legal proceedings in their daily lives, business operation or work, but they have nowhere to turn to for any legal assistance; in this connection, this Council urges the Government to:

- (a) conduct a comprehensive review on the existing legal aid system;

- (b) relax the asset limit for legal aid applicants (including that for the Supplementary Legal Aid Scheme) to a reasonable level so that more people in need are eligible to apply for legal aid; and
- ~~(c) extend the scope of the existing legal aid services to cover litigation cases in the Mainland involving Hong Kong permanent residents who are in the Mainland.~~

Note: Prof Hon Patrick LAU Sau-shing's amendment is marked with deletion line.